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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,292	01/13/2004	Yoshiharu Hayashi	056207.50393C2	1330
23911	7590	09/30/2004	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				DESTA, ELIAS
		ART UNIT		PAPER NUMBER
		2857		

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/755,292 Examiner Elias Desta	HAYASHI ET AL. Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 January 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 5-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 5-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **Detailed Action**

### **Drawing**

1. The drawing is objected to because of the following minor informalities:

- Fig. 3: change “data base” to “database”. Correction is required.

### **Abstract**

2. The abstract is objected to because of the following minor informality:

- Page 62: delete “doc #299112”. Correction is required.

### **Claim rejection – Double Patenting**

3. Claims 5-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/218,488 [Hayashi et al. (U.S. PAP 2003/0004659)].

Although the conflicting claims are not identical, they are not patentably distinct from each other because the plurality of electric power generating companies, as noted in claim 1 of 10/218,488 includes a plurality of power generation companies with a plurality of power generation units and power supply command center. Hence, claim 1 of the instant application is considered a subset of the plurality of power generation companies. For instance, the instant application and 10/218,488 both calculate power generation efficiency based on the input they obtain form the plurality of power generation units.

The complexity involved in managing power generation companies cited in 10/218,488 includes all the elements in the instant application and further provides an inter-company communication.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify or reduce 10/218,488 to the instant claims because 10/218,488 and the instant application include all the elements necessary to compute the power generation efficiency of a given company that provides a means to prepare operational and maintenance plan.

Hence, claims 5 and 14 of the instant application are equivalently represented in claim 1 of 10/218,488; claims 6, 7 and 15 in claim 2 of 10/218,488; claim 8 in claim 6 of 10/218,488; claim 9 in claim 11 of 10/218,488; claim 10 in claim 12 of 10/218,488; claim 11 in claim 9 of 10/218,488 and claims 12 and 13 in claim 10 of 10/218,488.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### **Claim rejection – 35 U.S.C. 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 5, 8 and 14 are rejected under 35 U.S.C. 102(e) as anticipated by *Ridolfo* (U.S. PAP 2003/0216888)

6. In reference to claims 5 and 14: *Ridolfo* teaches a system for aiding the preparation of operation and maintenance plans for power generation installation in which plant data are obtained from a plurality of power generation units or sub-systems (see *Ridolfo*, Fig. 2, and page 2, paragraphs 20-22). The efficiency for the concerned power generation unit or sub-system is calculated by making use of the obtained plant data (see *Ridolfo*, page 4, paragraph 73-76). Further, the failure probability of machines and apparatus or the parts in the power generation unit is calculated (see *Ridolfo*, page 5, paragraph 81), and operation and maintenance plans for the power generation unit or system are prepared based on the calculated power generation efficiency and failure probability (see *Ridolfo*, page 2, paragraph 18).

With regard to claim 8: as noted above in claim 5, *Ridolfo* further teaches that the failure history data of plant equipment for a given power generation unit or sub-system is stored in data acquisition system (database) as shown in Fig. 2, block 2. The failure probability of the respective plant equipment or machines and apparatus or parts is calculated by making use of the data acquired from the equipments (historical data), and then operation and maintenance plan is prepared based on the calculated power generation efficiency (Equipment failure and degradation module are used to do

efficiency analysis, page 4, paragraph 74) and failure probability (see Ridolfo, Fig. 2 and page 5, paragraphs 81-89).

## Conclusion

7. Citation of pertinent prior art:

- Ogilvie et al. (IEEE Article, 'Use of Data Mining Techniques in the Performance Monitoring and Optimization of a Thermal Power Plant') teaches a method of developing a full range model for thermal power plants.
- Kinoshita et al. (U.S. Patent 5,371,606) teaches automation system for nuclear power plants.
- Eryurek et al. (U.S. PAP 2002/0169514) teaches automatic work and parts order generation and tracking system.
- Janssen et al. (U.S. Patent 5,122,727) teaches electric power supply system with distribution of output.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Desta whose telephone number is (571)-272-2214. The examiner can normally be reached on M-Thu (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-5841 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-  
308-1782.



Elias Desta  
Examiner  
Art Unit 2857

DONALD E. McELHENY, JR.  
~~PRIMARY EXAMINER~~

-ed

September 16, 2004